

AN ACT

relating to taxes and fees imposed on cigarettes and other tobacco products, including an exemption to the cigarette tax, related administrative matters, and the elements of certain related offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 161.604, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Beginning in January 2014, and in January of each subsequent year, the comptroller shall adjust ~~compute~~ the rate of the fee ~~[applicable during that calendar year]~~ by increasing the rate in effect on the date the adjustment is made ~~[for the preceding calendar year]~~ by the greater of:

(1) three percent; or

(2) the actual total percentage change in the Consumer Price Index for All Urban Consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, during the preceding calendar year, calculated by comparing the CPI-U for December of the preceding calendar year with the CPI-U for December a year earlier.

(b-1) The adjusted rate of the fee determined under Subsection (b) takes effect on February 1 of the year in which the adjusted rate is determined and remains in effect until January 31

1 of the following year.

2 SECTION 2. Section 161.605(e), Health and Safety Code, is  
3 amended to read as follows:

4 (e) Notwithstanding any other law, a distributor that  
5 remits a monthly fee under this section is[~~, subject to Section~~  
6 ~~154.051, Tax Code,~~] entitled to a stamping allowance of three  
7 percent of the face value of all stamps purchased under Section  
8 154.041, Tax Code, for providing the service of affixing stamps to  
9 cigarette packages.

10 SECTION 3. Subchapter B, Chapter 154, Tax Code, is amended  
11 by adding Section 154.026 to read as follows:

12 Sec. 154.026. CIGARETTES USED EXCLUSIVELY FOR RESEARCH  
13 PURPOSES. (a) Cigarettes are exempt from the tax imposed by  
14 Section 154.021 if the cigarettes are:

15 (1) contained in a package labeled with "Experimental  
16 Use Only," "Reference Cigarettes," or other similar wording  
17 indicating that the manufacturer intends for the product to be used  
18 exclusively for experimental purposes in compliance with 27 C.F.R.  
19 Section 40.232;

20 (2) sold directly by a manufacturer to a research  
21 facility in this state, including:

22 (A) a laboratory, hospital, medical center,  
23 college, or university; or

24 (B) a facility designated as a Tobacco Center of  
25 Regulatory Science by the National Institutes of Health;

26 (3) used by the research facility exclusively for  
27 experimental purposes; and

1           (4) not resold by the research facility.

2           (b) Sections 154.041, 154.302, 154.502, 154.503, and  
3 154.515 do not apply to cigarettes exempted by Subsection (a).

4           SECTION 4. Section 154.210(a), Tax Code, is amended to read  
5 as follows:

6           (a) A distributor shall deliver to the comptroller, on or  
7 before the 25th ~~last~~ day of each month, a report for the preceding  
8 month.

9           SECTION 5. Section 154.502, Tax Code, is amended to read as  
10 follows:

11           Sec. 154.502. UNSTAMPED CIGARETTES. Except as provided by  
12 Section 154.026(b), a [A] person commits an offense if the person:

13                   (1) makes a first sale of unstamped cigarettes;

14                   (2) sells, offers for sale, or presents as a prize or  
15 gift unstamped cigarettes; or

16                   (3) knowingly consumes, uses, or smokes cigarettes  
17 taxed under this chapter without a stamp affixed to each individual  
18 package.

19           SECTION 6. Section 154.503(a), Tax Code, is amended to read  
20 as follows:

21           (a) Except as provided by Sections 154.026(b) and ~~[Section]~~  
22 154.042 ~~[of this code]~~, a person commits an offense if the person  
23 possesses unstamped cigarettes in quantities less than 10,000.

24           SECTION 7. Section 154.515(a), Tax Code, is amended to read  
25 as follows:

26           (a) Except as provided by Sections 154.026(b) and ~~[Section]~~  
27 154.042 ~~[of this code]~~, a person commits an offense if the person

1 possesses unstamped cigarettes in quantities of 10,000 or more.

2 SECTION 8. Section 155.111(a), Tax Code, is amended to read  
3 as follows:

4 (a) A distributor shall file with the comptroller on or  
5 before the 25th [~~last~~] day of each month[~~7~~] a report for the  
6 preceding month.

7 SECTION 9. (a) The changes in law made by this Act do not  
8 affect taxes and fees imposed before the effective date of this Act,  
9 and the law in effect before the effective date of this Act is  
10 continued in effect for purposes of the liability for and  
11 collection of those taxes and fees.

12 (b) The changes in law made by this Act to Sections 154.210  
13 and 155.111, Tax Code, apply only to a distributor's report  
14 originally due on or after the effective date of this Act. A  
15 distributor's report originally due before that date is governed by  
16 the law in effect on the date the report was due, and the former law  
17 is continued in effect for that purpose.

18 (c) The changes in law made by this Act to Sections 154.502,  
19 154.503, and 154.515, Tax Code, apply only to an offense committed  
20 on or after the effective date of this Act. An offense committed  
21 before the effective date of this Act is governed by the law in  
22 effect when the offense was committed, and the former law is  
23 continued in effect for that purpose. For purposes of this  
24 subsection, an offense was committed before the effective date of  
25 this Act if any element of the offense occurred before that date.

26 SECTION 10. This Act takes effect September 1, 2017.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 1390 passed the Senate on April 10, 2017, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 1390 passed the House on May 4, 2017, by the following vote: Yeas 142, Nays 1, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor